

(b) No State workmen's compensation law shall be included on the Secretary's list if the use of vocational rehabilitation facilities in such State would result in a partial or total loss of benefits to such miner.

ACTION BY THE SECRETARY

**§ 722.146 Standards for review of a State workmen's compensation law.**

(a) The standards for determining whether a State workmen's compensation law provides adequate coverage for total disability or death due to pneumoconiosis as set forth in this part are mandatory, in that compliance therewith is prerequisite to inclusion of any such law on the Secretary's list. Such standards have been determined to be the minimum requirements that a State workmen's compensation law must meet in order that the intent of section 421 of the Act be carried out. After review of the information submitted by a State pursuant to § 722.104 and any other information made available to the Department of Labor, the Secretary shall determine whether a State workmen's compensation law meets all of such requirements.

(b) Notwithstanding any other provision of this part, if it is shown, despite the language contained in a State workmen's compensation law, that because of judicial or administrative decision, or duly promulgated rules and regulations, or common practice in the State, such law does not provide adequate coverage for total disability or death due to pneumoconiosis, such law shall be excluded from the Secretary's list.

(c) Notwithstanding any other provision of this part, if it is found that any provision contained in a State's workmen's compensation laws or general laws serves or would be likely to serve to diminish the coverage available in such State for total disability or death due to pneumoconiosis, such State's workmen's compensation law may be excluded from the Secretary's list.

**§ 722.147 Action subsequent to review.**

(a) If it is found that a State workmen's compensation law during any period provides adequate coverage for total disability or death due to pneu-

moconiosis, such law shall be included for such period on the Secretary's list to be published in the FEDERAL REGISTER and set forth in § 722.152 pursuant to section 421(b)(1) of the Act. The appropriate State agency shall be notified of the Secretary's action.

(b) If it is found that a State workmen's compensation law submitted for consideration pursuant to § 722.103 does not provide adequate coverage for total disability or death due to pneumoconiosis during any period, the appropriate State agency shall be notified of such decision and, if such law has previously been on the Secretary's list, of the fact that the decision requires deletion of such law from the list during such period. Such notice shall contain a brief statement of reasons enumerating the provision or provisions of the State's law which are unacceptable.

(c) In the event of a denial of a request that a State workmen's compensation law be included on the Secretary's list, or of a decision to delete a previously listed law from the list, the appropriate State agency shall have the right to request the Secretary to reconsider his action. Such request shall be accompanied by a brief or memorandum in support thereof.

**§ 722.148 Provisional approval.**

The Secretary may, in his discretion, provisionally approve a State's request that its workmen's compensation law be included on the Secretary's list pending the final promulgation of rules and regulations or the effective date of certain amendments to the State's law. Notice of such provisional approval shall be given to the appropriate State agency, but such State's workmen's compensation law shall not be published on the Secretary's list in the FEDERAL REGISTER until such regulations or amendments are effective.

**§ 722.149 Judicial review.**

The action by the Secretary in including or failing to include any State workmen's compensation law on the Secretary's list shall be subject to judicial review exclusively in the U.S. Court of Appeals for the circuit in which the State is located or in the U.S. Court of Appeals for the District